

**DURHAM, NORTH CAROLINA  
MONDAY, MAY 20, 2002  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order and at that time he read proclamations declaring May 19-25, 2002 as Kostroma Week and June 6-13, 2002 as Nursing Assistants Week.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested the following items be added to the agenda: Equity Investments for Certain City Funds--an addition to the 2002 Legislative Program; OSHA Violations and Durham Convention & Visitors Bureau (DCVB)--Technical Fixes to Some Transitional Issues with the New Legislation related to hotel/motel tax which is a legislative item. Also, she noted additional handouts were distributed for the following: Consent Item #21 [YMCA] Right of First Refusal to Purchase Agreement with the Capital Area Young Men's Christian Association, Inc.; Item #33 [Housing Impact Policy [2 parts—Committee/Staff Recommendation]; Item #40 [Downtown Design Overlay—Citizen letter]; and Item #60 [Audit Services Oversight Committee—2 resumes].

Relative to Consent Item #51 [Police Benevolent Association], City Attorney Blinder noted he has additional information concerning enabling authority that the Police Officers Association requested at the Work Session.

There were no priority items from the City Clerk.

Mayor Bell asked to be excused from the May 23, 2002 City Council Work Session.

**MOTION** by Council Member Stith seconded by Mayor Pro Tempore Cheek to excuse Mayor Bell from the May 23, 2002 City Council Work Session was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to add items [Equity Investments for Certain City Funds, OSHA Violations and Technical Fixes to Some Transitional Issues with the New Legislation] to the agenda was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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At this time during the meeting, the Pledge of Allegiance was cited.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. The following items were pulled from the Consent Agenda: Item #17 [2002-03 Preliminary Budget]; #19 [2002 Public Improvement Bond Series]; #21 [YMCA]; #33 [Housing Impact Policy]; #51 [Police Benevolent Association]; #53 [Alston Avenue/Riddle Road]; #54 [Good Morning America]; and #60 [Audit Services Oversight Committee].

Relative to Consent Item #56 [Schedule for Council Meetings], City Manager Conner made a correction to the schedule noting Council Work Sessions will begin at 12 noon instead of 1:00 p.m.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES - CITY CLERK'S OFFICE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the official City Council minutes for the following meetings was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

April 1, 2002 – Regular Meeting  
April 4, 2002 – Special Meeting  
April 18, 2002 – Special Meeting

**SUBJECT: HUMAN RELATIONS COMMISSION - RECEIPT AND ACCEPTANCE OF APPLICATIONS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for citizens to fill one (1) vacancy for a Non-Minority Member and one (1) vacancy for a Minority Member. These terms will expire June 30, 2005 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: HOUSING APPEALS BOARD - RECEIPT AND ACCEPTANCE OF APPLICATIONS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for citizens to fill three (3) vacancies for two (2) Regular Members representing the categories of TENANT and REALTY with terms expiring June 30, 2005 and one (1) Alternate Member representing the category of LAW with term expiring June 30, 2004 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CITY-COUNTY APPEARANCE COMMISSION- APPOINTMENTS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to appoint the following individuals to the City/County Appearance Commission was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Kay Pearlstein - Term to expire April 1, 2005  
Howard A. Partner - Term to expire April 1, 2004  
Serge Paquette - Term to expire April 1, 2004

**SUBJECT: DURHAM PLANNING COMMISSION - RECEIPT AND ACCEPTANCE OF APPLICATIONS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for citizens to fill two (2) vacancies representing District 2 and District 3. These are three-year terms and will expire June 30, 2005 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: PROJECT ORDINANCE FOR PEDESTRIAN SAFETY PROGRAM FUNDS – NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the Project Ordinance for the City of Durham and the North Carolina Department of Transportation “Pedestrian Safety Project Funds” for FY 2003-04 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12556**

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**SUBJECT: VOLUNTARY ANNEXATION PETITIONS SUBMITTED PRIOR TO APRIL 1, 2002 - WESTFIELD HOMES / BUTLER PROPERTY AND BRANDYWINE PROPERTY**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report from the Administration on the voluntary annexation petitions; and

To accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-31 and 160A-58; and

To adopt resolutions establishing public hearings for June 3, 2002 on the following submitted voluntary petition annexations: Westfield Homes/Butler Property and Brandywine Property was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8867 - 8868**

**SUBJECT: BID REPORT – MARCH 2002**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve and record in the minutes bids and items displayed that were acted upon by the City Manager during the month of March 2002 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**CITY OF DURHAM NORTH CAROLINA**

April 22, 2002

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Navdeep S. Gill, Finance Director  
Kenneth C. Pennoyer, Assistant Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To approve and record in the minutes the following bids which were acted upon by the City Manager during the month of **March 2002**.

Apparatus, Supplies, Materials, Equipment, Construction, and Repairwork:

**1. Bid: Office Workstations for Public Works/Sewer Rehab**

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Purpose of Bid: To purchase and install Steel Case brand office workstations for Public Works/Sewer Rehab.

Comments: Storr Office Environments is the sole regional source for Steel Case brand products. The Steel Case brand is the only product that is compatible with the existing workstations.

Opened: March 18, 2002

Bidders: Storr Office Environments \$17,176.65  
Morrisville, N.C.

\*Awarded based on: \_\_\_\_\_ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	164		# Black Males	29	28%
Total # Females	61	37%	# White Males	70	68%
Total # Males	103	63%	# Other Males	4	4%
			# Black Females	6	10%
			# White Females	52	85%
			# Other Females	3	5%

Performance Bond: \_\_\_\_\_ Waived \_\_\_\_\_ Not Waived ☒ Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

**2. Bid: Blue Recycling Bins (3,000 @ \$6.13 each)**

Purpose of Bid: To provide the Solid Waste Department with blue recycling bins

Comments: Bids were mailed to several vendors and only one response was received.

Opened: March 15, 2002

Bidders: Rehrig Pacific Company \*\$18,390.00  
Lawrenceville, GA

\*Awarded based on: \_\_\_\_\_ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	163		# Black Males	21	13%
Total # Females	42	25%	# White Males	55	34%

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Total # Males	121	75%	# Other Males	45	28%
			# Black Females	08	05%
			# White Females	12	06%
			# Other Females	22	14%

Performance Bond: \_\_\_\_\_ Waived \_\_\_\_\_ Not Waived X Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

**3. Bid: MSA Air-Purifying Respirators**

Purpose of Bid: To provide the Police Department with air-purifying respirators.

Comments: The Law Enforcement Block Grant is funding this purchase.  
(271 air-purifying respirators @ \$109.13 each)

Opened: February 27, 2002

Bidders:	American Safety Utility Corporation *	\$29,574.23
	Shelby, NC	
	Air-Care, Inc.	\$31,165.00
	Hayes, VA	

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	38		# Black Males	0	0%
Total # Females	23	61%	# White Males	15	39%
Total # Males	15	39%	# Other Males	0	0%
			# Black Females	19	50%
			# White Females	2	5.5%
			# Other Females	2	5.5%

Performance Bond: \_\_\_\_\_ Waived \_\_\_\_\_ Not Waived X Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

**4. Bid: 720 Non Metallic Chain**

Purpose of Bid: To purchase 4,640 feet of non-metallic chain

Comments: This chain is used in the drinking water sedimentation basins at the Brown WTP. Carotek, Inc., is the only known source for this chain.

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Opened: February 18, 2002

Bidders: Carotek, Inc. \*\$37,120.00  
Matthews, NC

\*Awarded based on: \_\_\_\_\_ Low Bid   X   Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	163		# Black Males	0	0%
Total # Females	42	26%	# White Males	116	71%
Total # Males	121	74%	# Other Males	5	3%
			# Black Females	0	0%
			# White Females	41	25%
			# Other Females	1	1%

Performance Bond: \_\_\_\_\_ Waived \_\_\_\_\_ Not Waived   X   Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

**5. Bid: Code 3 ® Emergency Vehicle Warning Systems**

Purpose of Bid: To provide the Police Department with Emergency Vehicle Warning Systems for patrol cars.

Comments: A Law Enforcement Block Grant is funding this purchase.  
(58 warning systems @ \$1,490.00 each)

Opened: February 26, 2002

Bidders: Newton's Fire and Safety, Inc. \* \$86,420.00  
Swepsonville, NC  
Southern Public Safety Equipment Company \$89,073.50  
Greensboro, NC

\*Awarded based on:   X   Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	12		# Black Males	0	0%
Total # Females	2	17%	# White Males	10	83%
Total # Males	10	83%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	17%
			# Other Females	0	0%

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Performance Bond:      \_\_\_\_\_ Waived      \_\_\_\_\_ Not Waived      **X** Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

**6.      Bid:    Roll-Out Refuse Collection Carts**

Purpose of Bid:      To purchase (756) roll-out refuse collection carts for the Solid Waste Management Department.

Comments:      756 carts @ \$36.45 each

Opened:      February 28, 2002

Bidders:	Cascade Engineering, Inc.	*	\$27,556.20
	Grand Rapids, MI		
	Schaefer Systems, Inc.		\$27,745.20
	Charlotte, NC		
	Plastic Omnium Zarn, Inc.		\$28,176.12
	Houston, TX		
	Otto Industries, Inc.		\$33,316.92
	Charlotte, NC		

\*Awarded based on: **X** Low Bid      \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	740		# Black Males	103	14%
Total # Females	296	40%	# White Males	301	41%
Total # Males	444	60%	# Other Males	26	4%
			# Black Females	103	14%
			# White Females	167	23%
			# Other Females	26	4%

Performance Bond:      \_\_\_\_\_ Waived      \_\_\_\_\_ Not Waived      **X** Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

**7.      Bid:    Purchase and Installation of Filter Media and Gravel for the Brown WTP Filter #7**

Purpose of Bid:      To repair the failed #7 Filter at the Brown Water Treatment Plant

Comments:

Opened:      March 4, 2002



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Bidders:	Chid Corporation dba Shoreline Enterprises *	\$51,540.00
	Mooresville, NC	
	All Service Contracting Corporation	\$53,583.85
	Decatur, IL	
	Crain and Denbo, Inc.	\$57,990.00
	Durham, NC	
	Seaside Utilities, Inc.	\$59,000.00
	Moncks Corner, SC	
	The Roberts Filter Group	\$59,700.00
	Darby, PA	

\*Awarded based on: ☒ Low Bid    ☐ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	6		# Black Males	0	0%
Total # Females	1	17%	# White Males	4	66%
Total # Males	5	83%	# Other Males	1	17%
			# Black Females	0	0%
			# White Females	1	17%
			# Other Females	0	0%

Performance Bond:    ☐ Waived    ☐ Not Waived    ☒ Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (\*).

JWC:lm

**SUBJECT:   ESTIMATED ANNUAL REQUIREMENTS FOR GRASS MOWING  
AND LANDSCAPING SERVICES FOR ENVIRONMENTAL  
RESOURCES WATER/WASTEWATER FACILITIES – TARHEEL  
LAWN & BUILDING MAINTENANCE, INC.**

*The Estimated Annual Requirements for Grass Mowing and Landscaping Services for Environmental Resources Water/Wastewater Facilities item was removed at the May 9, 2002 Work Session.*

**SUBJECT:   SPEED LIMIT – FREEMAN ROAD**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to establish a 25 mph speed limit was approved at 7:26 p.m. by the following

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vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

On Freeman Road from Clayton Road to the eastern City limits.

**Ordinance # 12557**

**SUBJECT: HANDICAP PARKING - SOUTH BRIGGS AVENUE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance authorizing the installation of a handicap parking space at the following location was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

On the east side of South Briggs Avenue in the area beginning at a point 225 feet south of the south curb line of Ashe Street, if extended, and extending for a distance of 22 feet southwardly.

**Ordinance # 12558**

**SUBJECT: PROHIBITED PARKING - ATHENS AVENUE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to prohibit parking, at any time, at the following location was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

On the west side of Athens Avenue in the area beginning at a point 427 feet south of the south curb line of Majestic Drive, if extended, and extending for a distance of 75 feet southwardly.

**Ordinance #12559**

**SUBJECT: ORDERING PETITIONED IMPROVEMENTS – WYNN ROAD**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept a Certificate of Sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for June 3, 2002 for the following improvement was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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Curb, Gutter and Paving and Water and Sewer Laterals on Wynn Road –  
from NC Hwy 55 East to Railroad Right of Way.

**SUBJECT: WATER EXTENSION AGREEMENT TRIANGLE  
PRESBYTERIAN CHURCH OF N.C. – TUDOR PLACE – NC54**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to recommend that the City Council authorize the City Manager to enter into the water extension agreement with Triangle Presbyterian Church of N.C., Inc. was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: WATER EXTENSION AGREEMENT – MICHAEL D. SMITH -  
SMITH HOME PLACE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a water extension agreement with Michael D. Smith was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: WATER EXTENSION AGREEMENT – PARK CITY  
DEVELOPMENTS, INC. – BRANDYWINE SUBDIVISION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a water and sewer extension agreement with Park City Developments, Inc. to serve Brandywine Subdivision was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: STRUCTURAL ENGINEERING SERVICES FOR REPAIR TO  
NORTH DURHAM WATER RECLAMATION FACILITY -  
HAZEN & SAWYER, P.C.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with Hazen & Sawyer, P.C. in the amount of \$290,565, which includes \$264,150 for basic services and \$26,415 for contingency; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with

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the general intent of the version of the contract approved by City Council was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: SELECTION OF ACTUARY - MMC ENTERPRISE RISK CONSULTING, INC.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a contract with MMC Enterprise Risk Consulting, Inc., effective June 15, 2002 for actuarial services, including three annual studies at a cost not to exceed \$16,000 per study, three option personal presentations at a cost not to exceed \$3,000 each, and other services not to exceed a total of \$5,000 for the duration of the contract was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: GOLDEN BELT**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to set a public hearing on June 3, 2002 to receive comments on the proposed redevelopment plan for the Golden Belt Project was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: REBUILD DURHAM**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to terminate the existing CHDO Loan Agreement with Rebuild Durham, Inc.; and

To authorize the City Manager to execute a CHDO Loan Agreement with Rebuild Durham, Inc. in an amount not to exceed \$840,000, funded from FY 99-00 HOME funds, and to make minor changes to the Agreement as are consistent with City policy and HOME regulations as published by HUD; and

To authorize the City Manager to find and determine that mortgage loans for this permanent rental project are not otherwise available, wholly or in part, from public or private lenders, upon equivalent or reasonably equivalent terms and conditions was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDINGS FOR  
FAYETTEVILLE ROAD WIDENING - JAY T. PROPERTIES -  
NEWCASTLE GROUP**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to find that it is necessary, in the public interest, and for the public use and benefit to condemn approximately 2,188 square feet of land and approximately 2,762 square feet for a temporary construction easement, owned by Jay T. Properties, as shown on the Final Plat Showing Easements and Right of Way Required for Fayetteville Road, page 6 of 7, dated April 19, 2002; to authorize the City Attorney to initiate proceedings for that purpose, with a deposit into court of \$30,500, as the City of Durham's estimate of just compensation; and, to ratify the sending of notices to the owners of interests in the property to be condemned; and

To find that it is necessary, in the public interest, and for the public use and benefit to condemn approximately 4,405 square feet of land and approximately 9,323 square feet for a temporary construction easement, owned by Newcastle Group, as shown on Final Plat Showing Easements and Right of Way Required for Fayetteville Road, page 6 of 7, dated April 19, 2002; to authorize the City Attorney to initiate proceedings for that purpose, with a deposit into court of \$58,500, as the City of Durham's estimate of just compensation; and, to ratify the sending of notices to the owners of interests in the property to be condemned; and

To find that it is necessary, in the public interest, and for the public use and benefit to condemn approximately 7,552 square feet of land and approximately 26,479 square feet for a temporary construction easement, owned by Newcastle Group, as shown on Final Plat Showing Easements and Right of Way Required for Fayetteville Road, pages 3,4, and 5 of 7, dated April 19, 2002; to authorize the City Attorney to initiate proceedings for that purpose, with a deposit into court of \$98,000, as the City of Durham's estimate of just compensation; and, to ratify the sending of notices to the owners of interests in the property to be condemned was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: ACQUISITION FOR THE WIDENING OF FAYETTEVILLE ROAD  
- BRH CROOKED CREEK, LLC**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the acquisition of 8,684 square feet of fee simple right of way, a temporary construction easement containing approximately 11,175 square feet and payment for damages to the remainder of the property as shown on Tax Map 524-02-001, property of BRH Crooked Creek, LLC, for \$151,316 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: PROPOSED ACQUISITION FOR THE FUTURE EXPANSION OF LAKE MICHIE - ELLIS CHAPEL ROAD - JOHN AND LISA PAULETTE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the acquisition of approximately 7.406 acres of land located off Ellis Chapel Road, Tax Map 946-01-004D, property of John and Lisa Paulette, for \$56,200 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO THE FREELON ARCHITECTS CONTRACT FOR THE MULTI-MODAL CENTER - FREELON GROUP**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to ratify the selection of the Freelon Group as the architect for the Multi-Modal Transportation Center; and

To authorize the City Manager to amend the professional services contract with the Freelon Group as executed on July 27, 2000 for the purpose of performing tasks 1 through 13 of Phase I A in an amount not to exceed \$168,795; and

To authorize the City Manager to make changes to the contract such that the project scope is not lessened was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: PROPOSED MANAGEMENT AGREEMENT FOR THE COMMUNITY FAMILY LIFE AND RECREATION CENTER AT LYON PARK**

*The Proposed Management Agreement for The Community Family Life and Recreation Center at Lyon Park item was removed from the agenda at the May 9, 2002 Work Session.*

**SUBJECT: CELLULAR WIRELESS COMMUNICATION – VERIZON WIRELESS, INC.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a two-year contract with Verizon Wireless, Inc. in the amount of \$77,400 per year for a total of \$154,800, to furnish the City of Durham with cellular wireless communication service. The first year of the contract will be from June 2002 to June 2003; and

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To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the version of the contract accompanying this agenda item was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: PAGER RENTAL SERVICE – ARCH WIRELESS, INC.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a two-year contract with Arch Wireless, Inc. in the amount of \$58,380 per year, for a total of \$116,760, to furnish the City of Durham with pager rental service. The first year of the contract will be from June 2002 to June 2003; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the version of the contract accompanying this agenda item was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: SAFETY TRAINING CONTRACTS - JAMES BRUCE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a contract for safety training with James Bruce in the amount of \$24,000 to cover the remainder of fiscal year 2002 and to ratify prior fiscal year contracts with Mr. Bruce for safety training in the amount of \$39,000 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: GANG RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.)**

*The presentation by District Court Judge, Craig Brown; Police Chief, Stephen Chalmers; Deputy Hoskins; and Assistant Superintendent for Student Services, Donna Smith on the G.R.E.A.T. program for Durham was received at the May 9, 2002 Work Session.*

**SUBJECT: STEPHEN HILTNER – ELLERBE CREEK WATERSHED ASSOCIATION (ECWA) – CITIZEN MATTER**

*Comments from the ECWA regarding NCDOT's design plans for future stormwater treatment facilities at the entryway to Durham from I-85 at the May 9, 2002 Work Session.*

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**SUBJECT: R. CHRISTOPHER SINCLAIR – THE TRIANGLE COMMUNITY COALITION (TCC) – CITIZEN MATTER**

*This was a Citizen Matter at the May 9, 2002 Work Session.*

**SUBJECT: ROBERT AND ELISABETH WILKINSON – CITIZEN MATTER**

*This was a Citizen Matter at the May 9, 2002 Work Session.*

**SUBJECT: CHRISTINE POE**

*The citizen, Ms. Christine Poe, removed her item from the agenda at the May 9, 2002 Work Session.*

**SUBJECT: RDU AIRPORT AUTHORITY PRESENTATION**

*A report was heard from John Brantley of the RDU Airport Authority regarding a recent security incident at the airport at the May 9, 2002 Work Session.*

**SUBJECT: 2002 LEGISLATIVE PROGRAM**

*The 2002 Legislative Program was removed from the agenda at the May 9, 2002 Work Session.*

**SUBJECT: SCHEDULE FOR COUNCIL MEETINGS – WORK SESSIONS**

Earlier in the meeting, City Manager Conner noted a correction to the schedule stating that the City Council Work Sessions would begin at 12 noon instead of 1:00 p.m.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the schedule as amended to hold Council Meetings and Council Work Session from June 17, 2002 through December 31, 2002 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: REVISIONS TO ADOPTED DEVELOPMENT/PHASING PLAN AND MAJOR SITE PLAN -- "ERWIN TERRACE, PHASE I (D02-020)"**



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**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve revisions to the adopted development/phasing plan for Erwin Terrace, including shifts in the locations and phasing of the uses and buildings, reduction in the pedestrian spaces with an increase in building sizes, and a site plan for Phase I with an increase in building height to five stories. Phase I consists of a five-story, 69,000 square foot building, including 16,000 square feet of retail space, 25 apartment units (in 53,000 square feet), 25 new underground and 110 new surface motorized vehicle parking spaces and eight bicycle spaces on a +/-3.539 acre portion of a +/-10.90 acre site, zoned MU(D). The property is located on the north side of Erwin Road, west of LaSalle Street, and on both sides of Lambeth Circle was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: STOP SIGN – ROLLING PINES AVENUE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the following ordinances was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

- a. To repeal Ordinance #11244, adopted 9-2-97 that authorized the installation of a yield sign on Rolling Pines Avenue at Ambassador Drive, southeast corner; and
- b. To authorize the installation of a stop sign on Rolling Pines Avenue at Ambassador Drive, southeast corner.

**Ordinance # 12560 - 12561**

**SUBJECT: SCHOOL ZONE – COOK ROAD**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to amend Ordinance #11249 authorizing the installation of a school zone at the following location was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

On Cook Road beginning at a point 300 feet west of the west curb line of Dunn Avenue and extending eastward to a point 90 feet east of the east curb line of Missell Avenue.

**Ordinance #12562**

**SUBJECT: BARNES AVENUE UPDATE**

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*A report was received from the Housing and Community Development Department and the Police Department on the recommendations for Barnes Avenue at the May 9, 2002 Work Session.*

**SUBJECT: LEASE AGREEMENT – DURHAM BASEBALL CLUB, LLC –  
CONTINUED FROM MAY 6, 2002**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute the lease agreement with the Durham Baseball Club, LLC; and authorize changes to be made by the City Manager, provided such changes do not materially affect the intent and purpose of the lease agreement was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CABLE TV ADVISORY BOARD - REAPPOINTMENTS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to reappoint the following citizens to the Cable TV Advisory Board with terms expiring October 31, 2002 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

James E. Vaughn  
David L. Paletz  
Richard H. LeSesne

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: 2002 PUBLIC IMPROVEMENT BONDS SERIES**

Nav Gill, Finance Director, made disclosure statements commenting on debt service, the number of projects that would be financed, resolution authorizing issuance and bond.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Edwards to adopt a resolution providing for the issuance of \$25,910,000 general obligation improvement bond, series 2002 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8869**

At this time, Mayor Bell asked the Council to pull Consent Item #46 [Mary E. Luikart – Citizen Matter].

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**MOTION** by Council Member Clement seconded by Council Member Cole-McFadden to pull Item #46 from the Consent Agenda was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: YMCA REQUEST**

Council Member Edwards noted she would be abstaining on this item because she works for the YMCA.

City Attorney Blinder gave an overview of the Right of First Refusal to Purchase (Agreement) between the Capital Area Young Men's Christian Association and the City of Durham.

**MOTION** by Council Member Clement seconded by Council Member Stith to hear a request from the YMCA of Greater Durham regarding merger with the Capital Area YMCA and foreclosure on Series 1996 Bond Obligations of the YMCA; and

To approve Right of First Refusal to Purchase (Agreement) between Capital Area Young Men's Christian Association and City of Durham was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Abstention: Council Member Edwards. Absent: None.

**SUBJECT: HOUSING IMPACT POLICY REVIEW COMMITTEE**

The presentation from the Housing Impact Policy Review Committee on their recommendations for the City of Durham was heard at the May 9, 2002 Work Session.

Charlene Montford, Housing & Community Development Director, made comments on this item and gave an overview of staff's recommendation.

Also, a Proposed City of Durham Housing Location Policy was made available to Council as follows:

**PROPOSED  
CITY OF DURHAM  
HOUSING LOCATION POLICY**

The purpose of the Housing Location Policy is to guide the distribution and location of subsidized housing within the City. The policy is aimed at the following objectives.

1. To promote greater housing choice and housing opportunities for low and moderate income households;

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2. To avoid undue concentrations of subsidized housing in minority and low income neighborhoods; and
3. To further community revitalization efforts by encouraging the rehabilitation or replacement of older housing.

Subsidized housing as defined by this policy shall include any housing development(s) or housing unit(s) funded, in whole or partially, by the United States Department of Housing and Urban Development, the North Carolina Housing Finance Agency, the County of Durham, the City of Durham, or the Durham Housing Authority. Tenant-based Section 8 certificates or vouchers are excluded from this definition.

The distribution of subsidized housing development/units shall be based on geographical priority using the attached map and the following criteria.

Outside Central City Locations: Includes areas which are continuing to experience growth in population and housing units; provides proximity to retail and office development; and have relative low percentages of minority and low income residents.

Central City Locations: Includes areas that meet some of the same criteria as outside central city locations, and also includes such factors as proximity to low income and/or minority concentrated areas; the lack of infrastructure to support subsidized housing development; or a lack of suitable parcels to build new housing developments.

Urban Core Locations: Includes areas with significantly higher concentrations of existing subsidized housing developments/units; relatively high concentrations of low income and/or minority residents; or lack suitable parcels to build new housing developments.

Focus Areas: Includes areas where urban redevelopment or neighborhood revitalization is a public goal. Such areas include urban renewal areas, neighborhood revitalization areas, Community Development Block Grant (CDBG) target areas, and focus areas. Development projects or proposals within these locations must be implemented in accordance with plans adopted for the area.

## **Exemptions**

Proposed subsidized housing project meeting the following criteria shall be exempt from housing location guidelines.

- a. Homeownership proposals. For the purposes of this policy, homeownership/homeownership opportunities shall be defined as dwelling units designed, constructed, and marketed for direct sale to owner-occupants. Developments or housing units in this category shall include, but not be limited to, those funded by governmental entities and programs, non-profit corporations

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and groups, public or private lending institutions, and public housing agencies. "Sweat equity" programs shall also be included in this category.

- b. Twelve or fewer attached or condominium dwellings for sale directly to owner occupants.
- c. Group homes, shelters, and homes for persons with special needs.
- d. Elderly housing with sixty or fewer dwelling units.
- e. Renovation, rehabilitation and replacement of existing dwellings. The total number of units in a replacement housing development shall not exceed the total number of units in the development prior to the replacement program. When replacement housing is being located on a different site total number of subsidized units shall not exceed 50 units.
- f. Housing assistance provided directly to owner-occupants or tenants, and is not reflected in rent, income or purchase price limits that are attached to the home or land, (such as down payment assistance, second mortgages, mortgage tax credits, Section 8 or other rental assistance, TANF, etc).
- g. Dwellings to be built in compliance with a city-approved plan for a "redevelopment area," or "revitalization area."

Rationale: Revitalization and redevelopment areas have detailed City plans for neighborhood redevelopment and public investment, and a substantive citizen participation process. There are now two City revitalization areas (Walltown and Southwest Central Durham) and one redevelopment area (part of Edgemont).

- h. Dwellings to be built in compliance with a city-approved application for a HOPE VI program.

### **Limitations for New Construction Projects**

**Rental Housing:** Developments or housing units in this category shall be defined as dwelling units designed, constructed, and marketed for tenant (renter) occupancy. Developments or housing units in this category shall include, but not be limited to, those funded by governmental entities and programs, non-profit corporations and groups, public or private lending institutions, and public housing agencies. Development proposals of four (4) or less units are exempt from location criteria. Unless exempted under replacement housing criteria, federally subsidized (Public Housing Agency) multifamily developments shall be limited to 50 units per site. Developments or housing units in this category shall be based on geographic priority and the following criteria.

Outside Central City Locations: The total number of existing subsidized housing within a .5 mile radius of the proposed project plus the units in the proposed project, divided by the total number of housing units within the .5 mile

radius should not be greater than 25%. Existing units that are exempt from the location criteria are excluded from the calculation.

Central City Locations: The total number of existing subsidized housing within a .5 mile radius of the proposed project plus the units in the proposed project, divided by the total number of housing units within the .5 mile radius should not be greater than 20%. Existing units that are exempt from the location criteria are excluded from the calculation.

Urban Core Locations: The total number existing subsidized housing within a .25 mile radius of the proposed project plus the units in the proposed project, divided by the total number of housing units within the .25 mile radius should not be greater than 20%. Existing units that are exempt from the location criteria are excluded from the calculation.

Focus Area Locations: Focus areas are those communities with adopted redevelopment/revitalization plans or publicly funded revitalization initiatives. Projects and programs in these areas are typically funded through the Community Development Block Grant Program (CDBG). The primary goal of the CDBG program has been to act as a catalyst in leveraging private dollars with public assistance to further the capacity of private and public developers to provide affordable housing opportunities. In addition to the CDBG program, more recent funding sources such as Housing Bonds and HOPE VI are being used to achieve community revitalization goals. Subsidized housing proposals in focus areas should be exempt from location criteria. Any proposal for new construction must be done in conformance with approved plans for the area. The Community Development will assess proposals for development that are consistent with the goal of revitalization and better housing opportunities. As such, proposals for assistance will take into account, the design and site improvements proposed for the project, and the impact of the project on the entire community. In an attempt to evaluate proposals, the Community Development Department will acquire neighborhood input and consensus on any development scheme larger than 50 units.

## **Rehabilitation Projects**

Although there is some concern that rehabilitation projects should adhere to location criteria, there is merit for not restricting such units to areas outside the urban core or central city. The most apparent factor is that units that often need rehabilitation assistance are older and require repairs to make them safe, sanitary, decent, and affordable to area residents. The second factor is that units that may require rehabilitation assistance are a major element in lower income neighborhoods. The rehabilitation of these units assures that the existing housing stock is maintained and aids to improve housing opportunities.

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Frank Duke, Planning Director, made comments about staff's evaluation of the seven housing projects that N C Housing Finance Agency requested comments on for consistency with the recommendation of the Committee and the administration was also asked to review those recommendations. Mr. Duke stated applying the guidelines proposed by the ad hoc Committee all seven of the projects would be consistent. He outlined how the two proposals differ making comments about the exemptions relative to lease to purchase projects and the focus on concentrations of subsidized housing. He noted in applying staff's procedure, five of the seven projects would qualify or meet the requirements and the two projects that would not qualify under these proposals are Club Pointe Apartments and Hawthorne Hill Apartments.

Frank Duke, Planning Director, urged Council to rescind the 1996 policy and approve the recommendations of staff or the ad hoc committee. He noted whatever policy Council adopts, it should be an interim policy with a sunset of March 1, 2003. Further, he noted this gives N. C. Housing Finance Agency an answer for these projects with the opportunity to develop a more meaningful policy.

Council Member Clement asked staff if there are constraints within the policy to be adopted that would cause a moratorium to be enacted to prevent other projects from being submitted for consideration.

Frank Duke, Planning Director, replied no.

Council Member Clement raised a concern noting that he does not want those areas subject to litigation recently to be inundated with low cost housing.

Frank Duke, Planning Director, noted the area around the Pendleton project would still not qualify under the guidelines recommended by staff.

Council Member Clement asked staff if the area around Pendleton project has nothing to fear.

As it relates to the issue of subsidized housing, Frank Duke noted that's correct.

Mayor Pro Tempore Cheek asked staff why did they change from what the Committee had recommended.

Frank Duke, Planning Director, discussed the concentration issue.

Mayor Pro Tempore Cheek raised a concern about lease to purchase issue.

Council Member Cole-McFadden asked staff did citizens participate in staff's recommendation.

Frank Duke, Planning Director, replied no due to time constraints.

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Charlene Montford, Housing & Community Development Director, noted staff did consider the concerns of the neighborhood when they were attending the Committee meetings.

Council Member Cole-McFadden asked about the membership and deadline for permanent policy.

Lanier Blum, Chair of Ad Hoc Committee, noted seven members were appointed to ad hoc Committee and received advice from four alternates who attended meetings during that time.

Frank Duke, Planning Director, noted the permanent policy could be ready in January or February 2003.

Council Member Stith asked staff is the interim policy going to be effective and a good working document.

Frank Duke noted it is a good start on a working document.

Discussion was held on the sunset date.

Council Member Stith raised a concern about the interpretation of staff's recommendation authorizing the City Manager to make changes to the Interim Housing Location Policy noting if there are changes to the motion that Council makes tonight it should be Council's purview.

Frank Duke noted whatever action Council takes tonight staff could bring it back to Council in a formal document showing that this is verification and in fact the policy Council wants to adopt.

Council Member Edwards urged the administration to do more research on including the creation of affordable housing in all developments before coming back with a permanent policy.

Frank Duke made comments about staff working on the development of the community unified development ordinance and inclusionary zoning policy.

Discussion was held on sunset date and two projects that did not qualify.

Lanier Blum, Chair of Ad Hoc Committee, gave a report on the Committee's recommendation.

Spencer Cowan, Ad Hoc Committee Member, discussed one of the concerns and differences raised by committee--imposing different requirements based on racial composition in an area and low-income housing.

Council Member Clement thanked Ad Hoc Committee members for their work and raised a concern about the census map being outdated later this year. He urged the ad hoc



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Committee to make whatever changes to the recommendation that may be dictated by the 2000 census map. Also, he requested a clear map, along with a street overlay.

Melvin Whitley, of 2614 Harvard Avenue and representing the Y E Smith Homeowners Association, raised a concern noting there was no community participation during this process. Also, he urged Council to give the citizens something that is fair and that they can live with.

Misty Amos, of 236 S. Woodcrest Street, read a petition signed by over 360 residents requesting a stay of City of Durham's Housing Impact Policy until such a time the City adopts a Fair Share Housing Ordinance.

Rich Lee, representing Durham Affordable Housing Coalition, provided a letter recommending that Council rescind the 1996 Housing Impact guidelines, appoint a task force with neighborhood representation, to work with the City Manager to develop a more comprehensive Housing Policy and use the interim Guidelines developed by the City's ad hoc Committee as the starting point for development of a more comprehensive Housing Policy.

Linda Williamson, of 228 Hickory Glen Lane, expressed concern about the new policy and neighborhood notification. Also, she noted there is no small area plan for East Durham.

Ricky Hart, of 3415 Gibson Road, expressed a concern with the 1996 Housing Policy noting it should stay in effect and the concentration of subsidized housing should be spread across Durham.

Jack Preiss, of 2722 McDowell Road, made comments about the function of the ad hoc Committee and spoke in support of subsidized housing.

Ethel Breeze, of 2963 Carolyn Drive and representing East Durham Fair Share, raised a concern about the ad hoc Committee urging Council to broaden the Committee and to not consider the recommendations from them. Also, she urged Council to take a look at the City of Raleigh's policy.

Dr. Anita Keith-Foust, of 323 W. Trinity Avenue, requested Council and the City Manager to investigate the impacts of the request and voting record of the Planning & Zoning Committee relative to development in Durham.

Sharon Henderson, representing Twin Lakes Subdivision, noted subsidized housing must be distributed fairly throughout Durham. Also, she urged Council to retain the current Housing Impact Policy until a committee reflective of all of Durham develops a Fair Housing Ordinance for the City of Durham.

John Schelp, representing Durham NAACP, urged Council to not rescind Durham's Housing Impact Policy until they adopt a Fair Share Distribution Plan, asked Planning Department to get more involved in the process, and urged Council to spread subsidized housing across Durham. Also, he asked Council to make the following amendments: 1)

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add language stating that neighborhoods will be notified of the subsidized housing projects to be built nearby and 2) City and the Planning Department will work toward a Fair Housing Policy in Durham.

Alvis Aikens, representing Twin Lakes Community, raised a concern about the disproportionate representation of concentrated subsidized housing in one geographical area. Also, he urged Council to not rescind the current policy until an adequate complete study can be done that is a fair representation for eastern Durham.

Fred Foster, Jr., representing Durham Voter Coalition, raised a concern that there was not any citizen input and asked for a fair-shared housing distribution plan for Durham.

Mayor Bell discussed why Council is here tonight. Also, he made comments about subsidized housing.

Mayor Pro Tempore Cheek noted the policy adopted in 1996 was not intended to be any sort of permanent policy. He stated the language was intended to be temporary in order for a Fair Housing Policy to be developed.

Council Member Stith asked staff about the accuracy of data and the City's policy on including race as a component.

Frank Duke, Planning Director, noted Planning and Housing are working together to develop an accurate database of where all subsidized housing is located in Durham. Also, he noted race should not be a factor.

Council Member Cole-McFadden expressed a concern with replacing an interim policy with another interim policy and lack of citizen participation. Also, she noted she would not be voting for either policy.

Council Member Edwards asked staff about the timetable for an equitable study.

Frank Duke, Planning Director, noted the timeframe for the unified development ordinance with the existing contract would not be finalized until July 2003.

Council Member Edwards asked the Mayor if the Council decided not to rescind the policy what projects would be affected.

The Mayor noted it would affect Hope VI and Barnes Avenue. Also, he noted if Council rescinds current policy and does not do anything else it opens the floodgates for anybody and if the Council does not rescind the current policy, the impact is on HOPE VI.

Council Member Best noted he is not ready to vote on what is proposed tonight.

The following motion was made by Mayor Pro Tempore Cheek seconded by Council Member Clement:

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1. To receive a report from the administration regarding recommendations for a proposed interim Housing Location Policy for use as a guide in evaluating the eight (8) developments proposed for the Durham community.
2. To receive a report from the ad hoc Housing Policy Review Committee on recommendations for new guidelines to assist in evaluating proposals for subsidized housing.
3. To place a sunset on the proposed interim Housing Location Policy of March 1, 2003.
4. To expand the membership of the ad hoc committee to include neighborhood representation as well as representation from other agencies and organizations in the area and continue meeting until such time as a recommendation can be made to City Council for a Housing Policy to use in evaluating future proposals for subsidized housing in Durham.
5. To authorize the City Manager to make changes to the Interim Housing Location Policy that are consistent with the agenda item as passed by City Council.

Council Member Stith made friendly amendments to the motions. He requested bi-monthly reports from expanded ad hoc Committee with a final report to be given January 1, 2003. Relative to Motion #5, he spoke in support of Council approval rather than delegating that to the Manager, and the inclusion of not only the communities involved but also the issue of notification to the communities which was raised this evening.

Mayor Pro Tempore Cheek asked the City Manager to speak to the issue of Motion #5.

City Manager Conner stated whatever Council requests this evening staff will go ahead and implement those into the policy not to make modifications as projects come forward. She stated once Council adopts something tonight to make sure that is included in the interim policy and making changes that you make as a part of your motion. All projects will come before Council.

Frank Duke, Planning Director, stated the administration needs the ability to incorporate into the final policy whatever action Council takes this evening that would include deleting references to race, requiring regular reports back to Council on the progress the Committee is making and insuring notification to communities on additional or future proposed affordable housing projects. Mr. Duke stated what they will be simply doing is incorporating those changes/revisions into that policy under the authority of the City Manager under Mr. Cheek's motion.

It was noted by Planning Director Frank Duke if the current policy is kept, the existing Hope VI projects are inconsistent with the policy as it exists today.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Clement to receive a report from the administration regarding recommendations for a proposed

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interim Housing Location Policy for use as a guide in evaluating the eight (8) developments proposed for the Durham community; and

To receive a report from the ad hoc Housing Policy Review Committee on recommendations for new guidelines to assist in evaluating proposals for subsidized housing; and

To place a sunset on the proposed interim Housing Location Policy of March 1, 2003; and

To expand the membership of the ad hoc committee to include neighborhood representation as well as representation from other agencies and organizations in the area and continue meeting until such time as a recommendation can be made to City Council for a Housing Policy to use in evaluating future proposals for subsidized housing in Durham; and

To authorize the City Manager to make changes to the Interim Housing Location Policy that are consistent with the agenda item as passed by City Council was approved at 9:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Edwards and Stith. Noes: Council Members Best and Cole-McFadden. Absent: None.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to respond to the North Carolina Housing Finance Agency concerning the eight projects utilizing the recently adopted Housing Impact Policy statement and area land use plans was approved at 9:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: MARY E. LUIKART – *CITIZEN MATTER***

Comments were heard from Mary E. Luikart in opposition of the proposed sidewalk for Markham Avenue at the May 9, 2002 Work Session.

Mark Medley, of 1023 W. Markham Avenue, spoke in opposition to proposed sidewalk for Markham Avenue. He made comments about the tree in his yard noting it's valued at \$36,000. He asked staff who would be responsible for paying for his healthy tree if it is damaged as a result of putting in the sidewalk. .

Lee Murphy, of the Public Works Department, noted if the tree is on private property and the City damages it during construction, the City would be liable.

Mr. Medley noted the tree is on private property.

Mayor Bell asked the City Attorney is the City at fault if the tree becomes unhealthy and is proven that it was the result of what was done by the City in putting in the sidewalk.

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Mr. Medley replied exactly. Also, he asked if another type of substance could be used where the existing roots in the proposed area for the sidewalk could get water so that they would not be damaged.

Attorney Blinder briefed Council on the City's policy noting if the City believes it's at fault during any public project, it would pay for actual direct damages and out of pocket expenses on a case-by-case basis.

Council held discussion on the study of this area and how areas were chosen for sidewalk.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Edwards to direct the administration to proceed with the proposed sidewalk for Markham Avenue was approved at 9:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement and Edwards. Noes: Council Members Best, Cole-McFadden and Stith. Absent: None.

**SUBJECT: POLICE BENEVOLENT ASSOCIATION – *CITIZEN MATTER***

Comments from Andy Miller and Nicholas Then regarding the Police Benevolent Association Durham Police Officers Disciplinary Act at the May 9, 2002 Work Session.

City Attorney Blinder noted to implement the request of the Association, it would require enabling legislation.

Council Member Stith asked staff will Council need a placeholder so that this could be a part of the legislative agenda.

City Attorney Blinder briefed Council on the timing issue for the short session.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to refer the request for enabling legislation to the January 2003 long session was approved at 9:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: ALSTON/RIDDLE ROAD SIGNAL**

To petition the state to allow the City of Durham to place a traffic signal at the intersection of Alston Road and Riddle Road.

LeVerne Harper, President of CAC Community Council, noted the Manager received a letter from NCDOT refusing to authorize the placement of stoplight at intersection even if the City pays for it. He urged Council to mandate to NCDOT that something be done at that intersection.

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Council Member Clement spoke in support of this item.

**MOTION** by Council Member Clement seconded by Council Member Cole-McFadden to authorize the City Manager [Transportation Division] to seek a meeting with NCDOT Secretary and the City Council concerning the Alston/Riddle Road traffic signal was approved at 9:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: GOOD MORNING AMERICA**

Council Member Clement provided his colleagues with a resolution.

**MOTION** by Council Member Clement seconded by Council Member Cole-McFadden to adopt a resolution in support of North Carolina Central University and other minority colleges in the region concerning their protest of Good Morning America was approved at 9:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8870**

**[ITEMS ADDED TO AGENDA]**

**SUBJECT: USE OF EQUITIES INVESTMENTS FOR CERTAIN CITY FUNDS**

Mayor Bell noted this item is related to the 2002 Legislative Program which would allow the City to make equity investments to certain City funds rather than fixed income.

City Manager Conner made comments regarding the cemetery fund.

Nav Gill, Finance Director, provided Council with a handout requesting approval to petition the State Legislature to amend North Carolina General Statutes to allow the City of Durham to invest a portion of its Fiduciary, Enterprise, Internal Service and Capital Reserve Funds in equities and to make changes in the City's Investment Policy to reflect these changes in state law.

Mayor Pro Tempore Cheek asked staff is there any possibility if Council approves this will it effect our bond rating.

Nav Gill, Finance Director, replied no.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Clement to request enabling legislation to authorize investment of long term City funds in equities was approved at 9:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM CONVENTION & VISITORS BUREAU**

City Manager Conner made comments about the inter-local agreement and the hotel/motel tax noting there is some technical clean up regarding language.

Reyn Bowman, of the Durham Convention & Visitors Bureau, provided Council with the following memo dated May 17, 2002 regarding the technical fixes to some transitional issues with the new legislation:

Memorandum

**Date:** May 17, 2002

**To:** Marcia Conner, Durham City Manager  
Mike Ruffin, Manager, County of Durham

**From:** Reyn Bowman, President

**Re:** Technical Fixes to Some Transitional Issues with the New Legislation

I apologize for the timing of this request. As you know, DCVB was first chartered via Interlocal Agreement in 1989 as a provision to the 1986 legislation enabling a “room occupancy and tourism development tax.” To be more current with organizations of this type, recent legislation essentially reconstituted or reclassified DCVB as a local tourism development authority and adjusted the make-up of the Board with appointment still subject to Interlocal Agreement. Until the new make-up could be implemented, DCVB’s current City-County-appointed Board and Advisory Board was carried forward.

DCVB’s Board proposed a transition from one Interlocal to the next but due to time constraints, representatives of the City and County attorneys decided to incorporate only a small part of those recommendations and then collaborate to shape refinements and adjustments.

A meeting could not be scheduled until Monday, May 13<sup>th</sup> so the representatives of the City and County attorneys could meet with DCVB’s counsel and Senator Wib Gulley. The County had a last minute conflict. But the other parties sorted through the issues and aligned on a recommendation to make some small technical changes to the legislation to smooth the transition.

The changes proposed would:

- Smooth the transition of DCVB as it has been constituted since 1989 to reclassification of DCVB as a local tourism development authority. The changes permit DCVB to retain and use long-standing equity in the current name, carry

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forward assets and liabilities and minimize administrative changes such as new taxpayer ID numbers, IRS designations and clauses in contracts and other documents and the expense of two audits etc.

- Enable DCVB to begin immediately but gradually to phase in the transition from the old Board make-up to the make-up required in the new legislation and outlined in the new Interlocal rather than juggling two organizations until 2004. DCVB Board has shaped a transition plan.
- Enable the DCVB Board to establish additional qualifications for members, consistent with the Interlocal as it is or may be amended from time to time and the legislation, e.g. that the appointee be a decision-maker. DCVB was counseled that this was customary by then Commission Chair Bill Bell in 1991 with Joint City-County Committee discussion. DCVB proposed these qualifications for the new Interlocal, but at Monday's meeting it was believed this could be a technical fix to the legislation. The City and County would retain the right to set qualifications in amendments to the Interlocal, but DCVB's Board could fine tune those to meet practicalities.
- Clarify the conditions for termination of the DCVB Board. The current wording gives no notice period for termination and gives the impression or possibility that DCVB could be left without a Board until a session of the General Assembly. A technical fix would permit the existing Board to serve until further action by the City or County or the General Assembly. Conditions for termination are important reassurances to entities with which DCVB may contract.

Please call if you have any questions and again I apologize for the timing. It wasn't possible to get all of the parties involved to a conclusion until now.

Cc:

City Attorney Blinder disclosed that there are four sets of proposed changes that the Convention & Visitors Bureau had asked for noting three are technical in nature and one issue would authorize the Board itself to establish some additional qualifications as long as those additional qualifications are consistent with the general categories for appointments made by the City and County governing boards.

Mayor Bell asked the City Attorney if the two local boards [City & County] would still make appointments.

City Attorney Blinder replied that's correct.

It was indicated by the City Attorney that the motion should be a legislative request that the Convention & Visitors Bureau has made to express support from two governing boards.

**MOTION** by Council Member Best seconded by Mayor Pro Tempore Cheek to support a request from the Durham Convention and Visitors Bureau to amend legislation to make



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technical changes regarding transitional issues with the new legislation was approved at 9:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: AUDIT OVERSIGHT COMMITTEE**

To appoint five members and an alternate to the Audit Services Oversight Committee.

Mayor Bell noted the Mayor and City Manager would be a part of this Committee and he is recommending Council Members Cole-McFadden and Clement (Alternate Member).

City Manager Conner noted she is recommending Michael J. Mandl and E.L. Denny Clark. Also, she provided resumes of both individuals.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Edwards to appoint the following members to the Audit Services Oversight Committee: Mayor Bell, Council Member Cole-McFadden, Council Member Clement (Alternate Member), Michael J. Mandl and E. L. Denny Clark was approved at 9:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**The Bylaws of the Audit Services Oversight Committee approved by the City Council on May 6, 2002 state that the City Manager shall be a member of the Audit Services Oversight Committee.**

**MOTION** by Council Member Best seconded by Council Member Stith to extend the meeting beyond 10:00 p.m. was approved at 9:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: FISCAL YEAR 2002-2003 CITY OF DURHAM PRELIMINARY BUDGET AND FISCAL YEARS 2003-2008 PRELIMINARY CAPITAL IMPROVEMENT PROGRAM**

City Manager Conner read the budget message and informed Council that the Budget books will be delivered tomorrow morning.

**MOTION** by Council Member Clement seconded by Council Member Cole-McFadden to receive the budget message from the City Manager; and

To receive the FY 2002-03 City of Durham Preliminary Budget and Preliminary Capital Improvement Program (CIP) for FYs 2003-08; and

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To direct the City Clerk to maintain a copy of the FY 2002-2003 City of Durham Preliminary Budget and Preliminary Capital Improvement Program (CIP) for FYs 2003-08 in the Office of the City Clerk, where it shall remain available for public inspection until the budget and project ordinances are adopted; and

To direct the City Clerk to make a copy of the FY 2002-2003 City of Durham Preliminary Budget and Preliminary Capital Improvement Program (CIP) for FYs 2003-08 available to the news media in Durham County; and

To set a public hearing on Monday, June 3, 2002, at which time any persons who wish to be heard on the Budget or the Capital Improvement Program may appear was approved at 10:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]**

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS SUBMITTED PRIOR TO JANUARY 1, 2002**

To receive citizen comments regarding the proposed annexation of the following areas; and

Southpoint Village  
Hebron Road  
Glennstone Subdivision  
Cooksbury Drive

To adopt ordinances on the following annexation areas; and

Southpoint Village  
Hebron Road  
Glennstone Subdivision  
Cooksbury Drive

To authorize the City Manager to execute an amendment to the existing half-base contract with the Parkwood Volunteer Fire Department to provide supplemental fire protection to the Southpoint Village annexation area over a five-year period with the same terms and conditions as services are provided to other areas in such contracts.

**Note: Frank Duke, Planning Director, informed Council that this item was not properly advertised and as such Council would not be able to act on this item tonight. He stated this item would come before the City Council on June 3, 2002.**

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**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL – WATER MAIN –  
YORKSHIRE DRIVE**

To adopt a resolution confirming the assessment roll for Water Main on Yorkshire Drive from the South Property Line of Tax Map 768-2-6B to the North Property Line of Tax Map 768-2-6.

Due to an objection, Lee Murphy, of the Public Works Department, requested Council to confirm assessment roll except for the Nunzio Sanfilipo property, continue the public hearing for that assessment without further advertising and refer that assessment to the City Council Work Session on August 8, 2002 for further consideration.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no further objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Clement seconded by Council Member Best to adopt a resolution confirming the assessment roll for Water Main on Yorkshire Drive from the South Property Line of Tax Map 768-2-6B to the North Property Line of Tax Map 768-2-6 and; and

To continue the public hearing without further advertising and to refer the Nunzio Sanfilipo property to the August 8, 2002 City Council Work Session for further consideration was approved at 10:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL – SEWER MAIN –  
YORKSHIRE DRIVE**

To adopt a resolution confirming the assessment roll for Sewer Main on Yorkshire Drive from the South Property Line of Tax Map 768-2-6B to North Property Line of Tax Map 768-2-6.

Due to an objection, Lee Murphy, of the Public Works Department, requested Council to confirm assessment roll except for the Nunzio Sanfilipo property, continue the public hearing for that assessment without further advertising and refer that assessment to the City Council Work Session on August 8, 2002 for further consideration.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no further objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Best seconded by Council Member Stith to adopt a resolution confirming the assessment roll for Sewer Main on Yorkshire Drive from the South Property Line of Tax Map 768-2-6B to North Property Line of Tax Map 768-2-6; and

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To continue the public hearing without further advertising and to refer the Nunzio Sanfilipo property to the August 8, 2002 City Council Work Session for further consideration was approved at 10:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CURB, GUTTER AND PAVING ON PEARSON DRIVE FROM BAY POINT DRIVE TO FAYETTEVILLE ROAD; BAY POINT DRIVE FROM PEARSON DRIVE TO OVERBY DRIVE AND OVERBY DRIVE FROM BAY POINT DRIVE TO MIMOSA DRIVE (MINI ASSESSMENT ROLL)**

Lee Murphy, of the Public Works Department, noted assessment was continued from a previous meeting and staff recommends approving the item as printed on the agenda.

**a. Property of Lisa Toomer and Kelwin Biggs**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to find that the property of Lisa Toomer and Kelwin Biggs, identified as Tax Map 515-5-1, 511 Pearson Drive, has benefited from the curb, gutter and paving improvement and to confirm the assessment in the amount of \$2,000.00 was approved at 10:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**b. Property of Ernest L. and Elizabeth F. Clinton**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to find that the property of Ernest L. and Elizabeth F. Clinton, identified as Tax Map 515-1-21A, Bay Point Drive, vacant, Lot 497, has not benefited from the curb, gutter and paving improvement and to relieve the assessment in the amount of \$500.00 (in accordance with City Policy) was approved at 10:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING SC01-6 – ALEXANDER AVENUE**

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Dick Hails, of the Planning Department, made comments on this item.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Clement to hold a public hearing and consider closing 642.73 linear feet of Alexander Avenue; and

To adopt the order closing 642.73 linear feet of Alexander Avenue was approved at 10:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12563**

**SUBJECT: STREET CLOSING: SCO1-7, OREGON STREET**

Dick Hails, of the Planning Department, made comments on this item.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to hold a public hearing to consider closing 861.29 linear feet of Oregon Street; and

To adopt an order closing 861.29 linear feet of Oregon Street was approved at 10:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Ordinance #12564**

**SUBJECT: ZONING ORDINANCE TEXT AMENDMENT - EXPEDITED HEARINGS FOR REZONING REQUESTS AND ZONING ORDINANCE AMENDMENTS, AND ELIMINATION OF ZONING COMMITTEE BYPASS PROVISION (TC 123) [TWO ORDINANCE OPTIONS NOW INCLUDED]**

To hold a hearing and consider adoption of an ordinance amending Section 15 of the Durham Zoning Ordinance relative to review of map and text amendments by the Planning Commission prior to review by the Governing Bodies.

To adopt an ordinance (either Option A – City Manager Recommendation, or Option B – JCCPC Recommendation) amending Section 15 of the Durham Zoning Ordinance

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relative to review of map and text amendments by the Planning Commission prior to review by the Governing Bodies.

Frank Duke, Planning Director, noted the administration has included two alternates for Council consideration; however, due to the lack of advertising, the administration is recommending that the public hearing be continued on this item to the June 17, 2002 City Council Meeting.

Council Member Clement raised a concern about the public hearing not be advertised.

It was indicated by Mr. Duke that the Budget Office missed the deadline for placing an ad in the newspaper.

Mayor Bell opened the public hearing.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to continue the public hearing on this item without further advertising to the June 17, 2002 City Council Meeting was approved at 10:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DOWNTOWN DESIGN OVERLAY DISTRICT**

To hold a public hearing on the Downtown Design Overlay District.

To adopt an ordinance amending the Durham Zoning Ordinance to add Section 5.4 Establishing Standards for Downtown Design Overlay Districts to be Designated in the Future.

Frank Duke, Planning Director, noted that Downtown Durham, Inc. would be requesting that this item be continued to June 17, 2002 City Council Meeting so that their Board could go over issues raised in a letter to the Mayor and City Manager.

Mayor Bell opened the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Stith to continue the public hearing on this item to the June 17, 2002 City Council Meeting was approved at 10:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: REZONING CASE: P01-74**

Rezoning Case: P01-74 was removed from the agenda at the May 9, 2002 Work Session.

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**SUBJECT: CASE: P02-05 INITIAL ZONING OF NEWLY ANNEXED TERRITORY – HEFINA, ATKINS, AND BIVINS - CITY OF DURHAM - 28.75 ACRES NORTH OF JAMES ROSS ROAD**

Initiated by: City of Durham

Location: 28.75 acres north of James Ross Road, between Fayetteville Road and Massey Chapel Road, PIN 0718-04-83-0230; 0718-04-72-9823; 0718-04-82-2492; 0718-04-81-4808; 0718-04-82-0581 (Tax Map: 526-1-6; 525-1-11-525 -1-11C; 525-1-11B)

Request: RD (Rural District) No change in existing zoning classification is proposed, existing zoning is RD

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD zoning for the above described newly annexed territory.

**Note: Planning Director Frank Duke noted Case P02-05 was not properly advertised. Item will come back to council at a later date.**

**SUBJECT: CASE: P02-06 INITIAL ZONING OF NEWLY ANNEXED TERRITORY – BROWNS, BLAKES, AND MCKITTRICK - CITY OF DURHAM - 92.16 ACRES NORTH OF HEBRON ROAD**

Initiated by: City of Durham

Location: 92.16 acres north of Hebron Road and west of Denfield., PIN 0834-03-21-8749 (Tax Map: 780-1-1D)

Request: - PDR-4.69 (Planned Density Residential-4.69 units/acre) No change in existing zoning classification is proposed, existing zoning is PDR-4.69

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish PDR-4.69 zoning for the above described newly annexed territory.

Planning Department's Recommendation: Approval

**Note: Planning Director Frank Duke noted Case P02-06 was not properly advertised. Item will come back before the Council at a later date.**

**SUBJECT: CASE: P02-07 INITIAL ZONING OF NEWLY ANNEXED TERRITORY – CIMLAND, LLC - CITY OF DURHAM - 111.86 ACRES ON BOTH THE EAST AND WEST SIDES OF GLENN ROAD**

Initiated by: City of Durham

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Location: 111.86 acres on both the east and west sides of Glenn Road, just south of the intersection of Glenn Road and Jeffries Road. (Glennstone Subdivision), PIN 0843-02-98-2062; 0843-02-78-7463 (Tax Map: 687 –01-003B; 687 –01-003)

Request: R-10 (Residential 10 District) No change in existing zoning classification is proposed, existing zoning is R-10

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-10 zoning for the above described newly annexed territory.

Planning Department's Recommendation: Approval

**Note: Planning Director Frank Duke noted Case P02-07 was not properly advertised. Item will come back before the Council at a later date.**

**SUBJECT: CASE: P02-08 INITIAL ZONING OF NEWLY ANNEXED TERRITORY – CIMLAND, LLC - CITY OF DURHAM - 2.04 ON THE SOUTH SIDE OF COOKSBURY DRIVE**

Initiated by: City of Durham

Location: 2.04 on the South side of Cooksbury Drive at the eastern end of the street. 0853-04-62-6698 (Tax Map: 722-1-22)

Request: - RD (Rural District) No change in existing zoning classification is proposed, existing zoning is RD

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD zoning for the above described newly annexed territory.

Planning Department's Recommendation: Approval

**Note: Planning Director Frank Duke noted Case P02-08 was not properly advertised. Item will come back before the Council at a later date.**

**SUBJECT: PLAN AMENDMENT A01-05 – CONTINUED FROM MAY 6, 2002 – TRIANGLE TOWNSHIP PLAN**

To adopt a resolution to amend the Future Land Use Map of the Triangle Township Plan to identify as MIXED USE the recommended future use of parcel(s) 0747-02-89-4729, 0747-02-99-0676, 0748-04-90-1560, 0757-01-08-8763, and 0757-01-09-2355.

T. E. Austin, of the Planning Department, briefed Council on the plan amendment.

Mayor Bell opened the public hearing.

Ron Horvath, representing the developer, spoke in support of this item.



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Charles T. Leverett, of 4214 Page Road, spoke in support of the plan amendment.

Mayor Bell declared the public hearing closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution to amend the Future Land Use Map of the Triangle Township Plan to identify as MIXED USE the recommended future use of parcel(s) 0747-02-89-4729, 0747-02-99-0676, 0748-04-90-1560, 0757-01-08-8763, and 0757-01-09-2355 was approved at 10:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8871**

**SUBJECT: PLAN AMENDMENT A01-08 – CONTINUED FROM MAY 6, 2002 - TRIANGLE TOWNSHIP PLAN**

To adopt a resolution to amend the Future Land Use Map of the Triangle Township Plan to identify as MIXED USE the recommended future use of parcel(s) 0747-02-98-2390.

T. E. Austin, of the Planning Department, briefed Council on the plan amendment.

Mayor Bell opened the public hearing.

Shandra Davenport, representing developer, spoke in support of this item.

Mayor Bell declared the public hearing closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution to amend the Future Land Use Map of the Triangle Township Plan to identify as MIXED USE the recommended future use of parcel(s) 0747-02-98-2390 was approved at 10:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution #8872**

**SUBJECT: PLAN AMENDMENT A01-16 – CONTINUED FROM MAY 6, 2002 - NORTH DURHAM PLAN**

To adopt a resolution to amend the Future Land Use Map of the North Durham Plan to identify as MEDIUM DENSITY RESIDENTIAL the recommended future use of parcel 0832-08-99-4830.

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T. E. Austin, of the Planning Department, briefed Council on the plan amendment noting that the Planning Department recommends denial.

Mayor Bell opened the public hearing.

Duane Stewart, representing the developer, spoke in support of plan amendment noting the medium density residential use would be more compatible with the surrounding properties which are most impacted by this development. Also, he urged Council to support request.

Linda Peel, of 1446 Maplewood Drive, spoke in opposition to the plan amendment urging Council to keep this area as industrial.

Varethh Timberlake, of 1461 Maplewood Drive, expressed concern about another development going up in the area where seniors live due to gun shots, traffic and drug visibility.

Goldie Harper, of 3628 Four Season Drive, spoke in favor of area staying industrial and expressed traffic concerns.

Boris Brown, of 1446 Maplewood Drive, spoke in favor of not amending the plan due to drug activity.

Anthony Brown, of 1446 Maplewood Drive, urged Council not to vote on this item tonight due to notification concerns.

Emanuel Dunegan, of 2909 Nellowood Street, raised a concern about the lack of notification to neighbors.

Duane Stewart, representing the developer, noted the surrounding property owners were notified for this meeting and the land has already been cleared of trees and noted that the developer cannot get into the wetland and floodplains.

Mayor Bell declared the public hearing closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Planning Department's recommendation to deny medium density residential was approved at 11:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Cole-McFadden, Edwards and Stith. Noes: Council Member Best and Clement. Absent: None.

**[ITEM ADDED TO THE AGENDA]**

**SUBJECT: OSHA VIOLATIONS – BROWN AND WILLIAMS WATER PLANTS**

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City Manager Conner made comments on the report distributed to Council regarding OSHA violations at the Brown and Williams water plants.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive report from Environmental Resources on OSHA violations was approved at 11:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 11:10 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk